



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,769	08/15/2002	Samuel Edward Ebenstein	201-1317	2563

28549 7590 03/29/2005

KEVIN G. MIERZWA
ARTZ & ARTZ, P.C.
28333 TELEGRAPH ROAD, SUITE 250
SOUTHFIELD, MI 48034

EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
----------	--------------

2614

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,769

Applicant(s)

EBENSTEIN ET AL.

Examiner

Victor R. Kostak

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 3 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 08/15/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 2614

1. Claim 3 is objected to because of the following informalities: the term “signal” should be in plural form. Appropriate correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Orlando et al.

The camera testing system of Orlando (col. 1 lines 6-9, noting Fig. 1) includes a camera 20 that is positioned to image a target 21 and light from a first light source 28. The image signal output from element 18 is displayed (monitor not shown: e.g. col. 4 lines 64-67; col. 5 line 9; col. 6 lines 1-3) within inherent default parameters, namely maximum and minimum brightness levels achievable by the display unit. The light source is adjusted by controller 32 (claimed dimming component) such that various lamp levels are used for image testing (e.g. col. 3 lines 65-67), meaning that the lamp can be dimmed and/or increased to plural various levels thereby assigning respective lighting condition signals for camera 20 to be tested, and respective signals are obtained therefrom per lighting condition, and are in turn displayed and analyzed (col. 3 line 67 – col. 4 line 6), as calculations for various parameters are made (e.g. col. 5 line 2+), thereby meeting claims 1 and 7.

Art Unit: 2614

As for claim 2, the first target is positioned such that any image of the target taken by camera 20 is presented on the monitor within the maximum upper and lower brightness levels that are physically capable by the monitor.

As noted previously, Orlando takes images of the target for plural lighting conditions (characteristic of dimmer and/or brighter light levels relative to each other), parameters of the image data thereafter analyzed according to various calculations.

Regarding claim 10, lamp controller 32 corresponds to the claimed dimming mechanism.

As for claim 11, a second light source 34 is also included.

Considering claim 12, the dimming component (lamp controller 32) also controls the brightness of the second light source (col. 3 line 65 – col. 4 line 6).

As for claim 13, target 21 is positioned relative to camera 20 in a manner adequate to enable presented imagery to be within the maximum and minimum brightness levels physically possible by the monitor specifications.

As for claim 14, the operator (or any observer) is capable of viewing the monitor and whatever image qualities thereon that are visually perceptible.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orlando et al.

Art Unit: 2614

As for claim 4, lamp 28 includes a diffuser as labeled, the purpose of which is to lessen the concentrated emanation of direct light from lamp 28. It would have been obvious to use any suitable optical means to effect a reduction in light concentration, such as with a shield or optical or electronic filter, which would have been a ready modification recognized by the skilled artisan.

As for claim 5, it would have been obvious to use any suitable type of lamp capable of providing adequate light (of which the brightness can be controlled as desired), such as a single point light or composite array, such as a well known spotlight or alternative source.

Regarding claim 6, although Orlando does not explicitly state that the signal analysis of the first lighting condition involves relative to discrete detectability levels, it would have been obvious to perform the signal analysis to the extent that the system make-up allows. In other words, the system limitations dictate the processing capabilities carried out to whatever the finest measurable detection and the most accurate degree of calculation can be achieved, which in real terms comes to be a discrete (rather than infinitesimal) amount.

As for claim 9, having the dimming mechanism movable would have been obvious to one of ordinary skill in the art because one of ordinary skill in the art would typically consider every realizable modification of any component at and, such as repositioning, as well as the typical consideration of substituting elements for the existing ones.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2614

5. Claims 8 and 15-19 appear allowable over the prior art.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (571) 272-7348.

The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

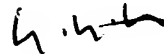
Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Art Unit: 2614

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.



Victor R. Kostak
Primary Examiner
Art Unit 2614

VRK